IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION (PIL) NO.921 OF 2005

Janhit Manch & Ors. ...Petitioners.
Vs.
State of Maharashtra & Ors. ...Respondents.

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Mr. Bhagvanji Raiyani, President of the Petitioner in person.
Mr. Niranjan Pandit, Assistant Government Pleader for Respondent Nos.1 to 6.
Mr. B.A. Desai, Additional Solicitor General with Mr. A.H. Gokhale for Respondent No.7.
Ms.Gautambala Bautam instructed by M/s. Nankani & Associate for Respondent No.9.

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CORAM : DALVEER BHANDARI, C.J. &
DR.D.Y.CHANDRACHUD, J.

August 24, 2005.

ORAL ORDER (PER DR. D. Y. CHANDRACHUD, J.):

These proceedings have been instituted in the public interest and seek the "enforcement of all legal provisions" for controlling noise pollution under the Environment (Protection) Act, 1986, Noise Pollution (Control and Regulation) Rules, 2000 and directions issued in judicial pronouncements more particularly reproduced in the petition. Other reliefs have been sought including (i) institution of criminal proceedings; (ii) disciplinary

action against errant officers; (iii) preparation of silence zone maps; (iv) a prohibition on the use of microphones and music in private premises resulting in noise pollution beyond the prescribed limit under the rules; (v) stipulation of norms for manufacturing fire crackers; (vi) destruction of fire crackers which violate the prescribed rules; and (vii) creation of awareness in regard to the observance of the Noise Pollution Rules.

The reliefs which have been sought in these proceedings are substantially, if not in their entirety covered by a recent decision of the Supreme Court in **In Re Noise Pollution (V),** (2005) 5 SCC 733. In the judgment of the Supreme Court, the Learned Chief Justice, Mr.Justice R.C. Lahoti has issued comprehensive directions to the authorities of the Union Government and of the States to enforce norms in relation to the prevention of noise pollution. The directions which have been issued by the Supreme Court are thus:

> "(i) *Firecrackers*
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> -174. 1. On a comparison of the two systems i.e. The present system of evaluating firecrackers on the basis of noise levels, and the other where the firecrackers shall be evaluated on the basis of chemical composition, we feel that the latter method is more practical and

workable in Indian circumstances. It shall be followed unless and until replaced by a better system.

-2. The Department of Explosives (DOE) shall undertake necessary research activity for the purpose and come out with the chemical formulae for each type or category or class of firecrackers. DOE shall specify the proportion/composition as well as the maximum permissible weight of every chemical used in manufacturing firecrackers.

-3. The Department of Explosives may divide the firecrackers into two categories – (i) sound-emitting firecrackers, and (ii) colour/light-emitting firecrackers.

-4. There shall be a complete ban on bursting sound-emitting firecrackers between 10 p.m. And 6 a.m. It is not necessary to impose restrictions as to time on bursting of colour/light-emitting firecrackers.

-5. Every manufacturer shall on the box of each firecracker mention details of its chemical contents and that it satisfies the requirement as laid down by DOE. In case of a failure on the part of the manufacturer to mention the details or in cases where the contents of the box do not match the chemical formulae as stated on the box, the manufacturer may be held liable.

-6. Firecrackers for the purpose of export may be manufactured bearing higher noise levels subject to the following conditions: (i) the manufacturer should be permitted to do so only when he has an export order with him and not otherwise; (ii) the noise levels for these firecrackers should conform to the noise standards prescribed in the country to which they are intended to be exported as per the export order; (iii) these firecrackers should have a different colour packing, from those intended to be sold in India; (iv) they must carry a declaration printed thereon something like “not for sale in India” or “only for export to country AB” and so on.

-(ii) *Loudspeakers*

-175. 1. The noise level at the boundary of the public place, where loudspeaker or public address system or any other noise source is being used shall not exceed 10 dB(A) above the ambient noise standards for the area or 75dB(A) whichever is lower.

-2. No one shall beat a drum or tom-tom or blow a trumpet or beat or sound any instrument or use any sound amplifier at night (between 10.00 p.m. and 6 a.m.) except in public emergencies.

-3. The peripheral noise level of privately-owned sound system shall not exceed by more than 5 dB(A) than the ambient air-quality standard specified for the area in which it is used, at the boundary of the private place.

-(iii) *Vehicular noise*

-176. No horn should be allowed to be used at night (between 10 p.m. and 6 a.m.) in residential area except in exceptional circumstances.

-(iv) *Awareness*

-177. 1. There is a need for creating general awareness towards the hazardous effects of noise pollution. Suitable chapters may be added in the textbooks which teach civic sense to the children and youth at the initially/early-level of eduction. Special talks and lectures be organised in the schools to highlight the menace of noise pollution and the role of the children and younger generation in preventing it. Police and civil administration should be trained to understand the various methods to curb the problems and also the laws on the subject.

> -2. The State must play an active role in this process. Resident Welfare Associations, service clubs and societies engaged in preventing noise pollution as a part of their projects need to be encouraged and actively involved by the local administration.
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> -3. Special public awareness campaigns in anticipation of festivals, events and ceremonial occasions whereat firecrackers are likely to be used, need to be carried out."

The Supreme Court has clarified that these guidelines have been issued in exercise of the powers conferred upon the Supreme Court in Articles 141 and 142 of the Constitution and would remain in force until modified by the Court or superseded by appropriate legislation. Apart from these directions, State Governments have also been directed to make provisions for seizure and confiscation of loudspeakers, amplifiers and other equipments which would be found to generate noise beyond permissible limit. Rule 3 of the Noise Pollution (Regulation and Control) Rules, 2000 make provisions for specifying ambient air quality standards in respect of noise for different areas or zones, for categorising the areas for implementing noise standards and for authorising authorities for the enforcement of standards. The Central Government and State Governments have been directed to take steps for laying down special standards and notifying

authorities where it has not already been done.

The Supreme Court has, in the judgment, considered the entire body of law on the subject. The comprehensive directions which have been issued bind all authorities and necessarily also those within the States. In view of the judgment rendered by the Supreme Court, it is not necessary, nor for that matter appropriate for this Court to issue any set of separate directions. The law laid down by the Supreme Court has to be and must be observed by all the authorities in the State.

A copy of this order shall be forwarded to the Chief Secretary of the State with a direction to issue instructions forthwith to all the concerned authorities including local authorities in the State so that the implementation of the directions issued by the Supreme Court can be commenced forthwith.

This petition shall accordingly stand disposed of. There shall be no order as to costs.

CHIEF JUSTICE.

DR. D. Y. CHANDRACHUD, J.